

SENATE BILL REPORT

SB 6261

As Reported By Senate Committee On:
Agriculture & Environment, January 29, 1998
Ways & Means, February 10, 1998

Title: An act relating to an aquatic plant management permit program.

Brief Description: Creating an aquatic plant management permit program.

Sponsors: Senators Swecker, Rasmussen and Winsley.

Brief History:

Committee Activity: Agriculture & Environment: 1/22/98, 1/29/98 [DPS].
Ways & Means: 2/10/98 [DP2S].

SENATE COMMITTEE ON AGRICULTURE & ENVIRONMENT

Majority Report: That Substitute Senate Bill No. 6261 be substituted therefor, and the substitute bill do pass.

Signed by Senators Morton, Chair; Swecker, Vice Chair; Fraser, McAuliffe, Oke and Rasmussen.

Staff: Kari Guy (786-7437)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 6261 be substituted therefor, and the second substitute bill do pass.

Signed by Senators West, Chair; Deccio, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau and Winsley.

Staff: Kari Guy (786-7437)

Background: Aquatic plant removal or control may be regulated by the Department of Ecology, Department of Fish and Wildlife, or Department of Agriculture, depending on the control method.

Chemical control of aquatic plants and weeds is authorized by the Department of Ecology through a "short-term modification of water quality standards." Short-term modifications are issued for activities that will cause a temporary reduction of water quality conditions below the state water quality standards. Issuance of a short-term modification for aquatic pesticides is guided by the 1992 Aquatic Plant Management Program Environmental Impact Statement (EIS). This EIS reviewed the aquatic plant control methods available at the time,

and recommended conditions or prohibitions to be placed on pesticide use. The short-term modification incorporates these conditions.

Mechanical aquatic plant control methods, such as bottom barriers, cutting, or harvesting, require a Hydraulic Project Approval from the Department of Fish and Wildlife. Biological control methods may require a special permit from the Department of Agriculture or the Department of Fish and Wildlife.

Many people testified before the Joint Select Committee on Lake Health that the existing permit program is time consuming, unpredictable, and is based on out-of-date information contained in the 1992 EIS. The committee recommended that a new aquatic plant permit program be created to replace the existing permits with a clear, consistent process.

Summary of Second Substitute Bill: An aquatic plant management permit is required for any person wishing to control or eradicate aquatic plants, unless the activity is specifically exempt. Aquatic plants may include noxious weeds, nuisance or beneficial plants, or algae.

The Department of Ecology must develop rules to implement the aquatic plant management permit program. The rules must be developed jointly with the Department of Agriculture, and in consultation with the Departments of Natural Resources, Fish and Wildlife, and Health, and the State Noxious Weed Board. The rules must be based on the principles of integrated pest management. The rules must include:

- Permit application submittal requirements;
- Criteria for issuing or denying permit applications;
- Operating requirements for chemical, biological, and mechanical control methods;
- An administrative appeals process;
- Public comment requirements;
- Penalties and remedies for noncompliance;
- Timelines for permit issuance;
- A method to periodically update the rules; and
- Forms to expedite State Environmental Policy Act review.

The Departments of Ecology and Agriculture must contract for a risk assessment of aquatic plant management methods, and complete an environmental impact statement on the proposed rules. The risk assessment must be used to develop the operating requirements for chemical, biological, and mechanical control methods.

The permit program must include a tiered approach to aquatic plant management. At a minimum, the permit program must provide an expedited permit for lakes below five acres in size that meet certain criteria; provide procedures for use of site-specific information; allow pilot use of state-registered pesticides; and develop general permits for noxious weed control on a statewide or regional basis. These tiers may be expanded to address other circumstances.

The aquatic plant management permit replaces permits currently required by the Department of Ecology, Department of Fish and Wildlife, and Department of Agriculture. If an application involves mechanical control methods, the Department of Ecology must defer to

the Department of Fish and Wildlife. If an application involves biological control methods, the Department of Ecology must defer to the Department of Agriculture.

A demonstration project is authorized to evaluate the effectiveness of the aquatic pesticide 2.4-D. Information gathered through the demonstration project must be used in developing the aquatic plant management permit rules.

Second Substitute Bill Compared to Substitute Bill: The appropriation of \$20,000 is removed.

Substitute Bill Compared to Original Bill: The permit exemption for lakes of under 20 acres is replaced with an expedited permit for lakes of under five acres. Permit fees are removed. The demonstration project is added.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For (Agriculture & Environment): This bill is the result of two years of work of the Joint Select Committee on Lake Health. The bill will create a predictable permit program for aquatic plant control, and provide a coordinated approach among state agencies. The focus on integrated pest management is positive.

Testimony Against (Agriculture & Environment): The permit exemption for lakes of under 20 acres is too broad. Twenty acres is a large lake; the exemption may cause environmental harm. Funding the program through permit fees is unreasonable, the fees will be so high as to be a deterrent to applying for a permit. The bill should be revised to place greater emphasis on site-specific review.

Testified (Agriculture & Environment): Terry McNabb, Resource Management; Tom Lowry, Lake Steilacoom (pro); Jim Richardson, Loon Lake Property Owners (pro); Dick Wallace, Department of Ecology; Ann Wick, Department of Agriculture (pro); Bruce Jennings, Washington Toxics Coalition (con); Peter Birch, Department of Fish and Wildlife; Mark Swartout, Thurston County; Ted Wier, Andrea Kiehl, Lake Steilacoom (pro); Jonathan Frodge, Washington Lake Protection Association (pro); Joanna Beuhler, Save Lake Sammamish (pro); Sharon Walton, King County Water and Land Resource Division (pro).

Testimony For (Ways & Means): The state needs to maximize the tools available to fight nuisance and noxious weeds. This bill makes significant progress toward regulatory reform.

Testimony Against (Ways & Means): None.

Testified (Ways & Means): Jim Richardson (pro); Peter Birch, DFW (pro).